IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Review Petition Stamp No.6429 of 2007
In
Writ Petition No.746 of 2007

The Chief Officer,
Khopoli Municipal Council,
Khopoli Petitioner
(Org.Resp.No.3)

Versus

Ashok Nivrutti Gaikwad & ors. Respondents

Mr.B.D.Joshi for petitioner.

Mr.Sunil Dighe for resp.no.1 - org. petitioner.

Mr.R.D.Rane, Government Pleader for Resp. Nos.2 to 4.

CORAM: B.H.MARLAPALLE & V.M.KANADE, JJ.

July 24, 2007.

P.C.

. Rule. Respondents waive service By consent

Rule is made returnable forthwith.

. Writ Petition No.746 of 2007 came to be finally allowed by the order dated 5/2/2007 passed by a Division Bench of this Court (H.L.Gokhale, Acting C.J. & V.M.Kanade,J.). The said order was served on all the respondents including the Chief Officer, Municipal Council, Khopoli which runs the High School at Varsang (Respondent No.1 in the petition) and the said school is fully unaided. It is evident from the

order under review that this Court was under the belief that all the respondents were served. However, respondent no.3 - the Chief Officer, Municipal Council at Khopoli was not represented and, therefore, he has filed this application for review contending that the order under review allowing the writ petition was served on him and subsequently contempt proceedings were also initiated by the original petitioner as he could not be reinstated. It is argued that the appointment of the original petitioner was not as per the procedure / Rules / Regulations and the respondent no.3 - the review petitioner was not in the know of the steps taken by the School Board including holding of the interviews as well as selection and appointment order issued in favour of the petitioner.

. Having regards to Rule 5 read with Rule 8 in Chapter XVII of the Appellate Side Rules, 1960, it is evident that Writ Petition No.746 of 2007 was allowed ex-parte as far as the review petitioner - original respondent no.3 is concerned and on that count we will have to recall the order under review.

. Hence the application is allowed and Writ

Petition No.746 of 2007 is restored to the stage of Rule. All the respondents waive service.

. Mr.Joshi, the learned counsel appearing for the review petitioner undertakes to file his affidavit-in-reply before the end of this month and will serve a copy of the same on Mr.Dighe as well as Mr.Rane. Rule will be heard peremptorily on 8th August 2007 at 4.45 p.m. Rejoinder, if any, shall be filed latest by 7th August 2007.

(V.M.KANADE,J.) (B.H.MARLAPALLE,J.)